

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ATTICUS MANAGEMENT LLC

Plaintiff,

-against-

ATTICUS INVESTMENTS LLC,  
CRESCENT FUND, LLC, JEFFERY STONE  
and JANETTE DILLER STONE

Defendants.  
-----X

Civil Action No. 07 CV 9730 (RPP)

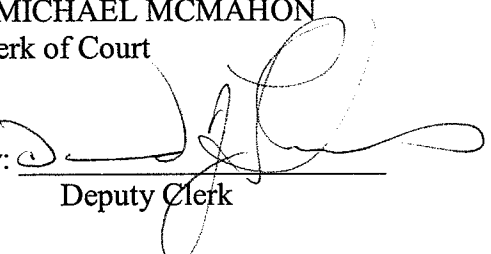
**CERTIFICATE OF DEFAULT**

I, J. Michael McMahon, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on November 2, 2007, with the filing of a summons and complaint; a copy of the summons and complaint was served upon defendant Atticus Investments LLC on November 29, 2007, through the Secretary of State, upon defendant Crescent Fund, LLC on November 26, 2007 through the Secretary of State, and upon defendant Janette Diller Stone on November 13, 2007, by personal service. Proofs of service of all defendants were filed electronically on January 2, 2008.

I further certify that the docket entries indicate that defendants Atticus Investments LLC, Crescent Fund, LLC, and Janette Diller Stone have not filed an answer or otherwise moved with respect to the complaint. The default of defendants Atticus Investments LLC, Crescent Fund, LLC, and Janette Diller Stone are hereby noted.

Dated: New York, New York  
February 26, 2008

J. MICHAEL MCMAHON  
Clerk of Court

By:   
Deputy Clerk

# **EXHIBIT B**

JUDGE PATTERSON

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ATTICUS MANAGEMENT LLC

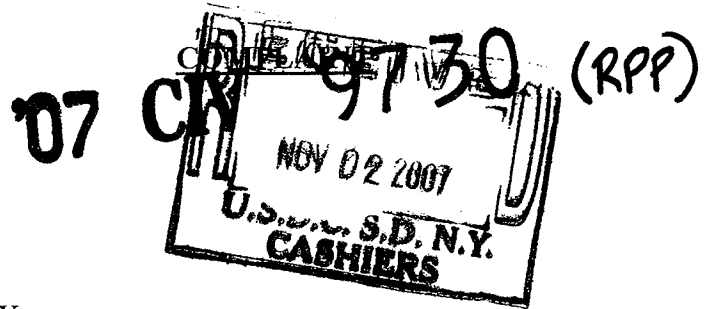
Plaintiff,

-against-

ATTICUS INVESTMENTS LLC,  
CRESCENT FUND, LLC, JEFFERY STONE  
and JANETTE DILLER STONE

Defendants.  
-----X

ECF CASE



Plaintiff, Atticus Management LLC, ("Plaintiff"), by its attorneys, Kaufman Borgeest & Ryan LLP, as and for its complaint against Defendants, Atticus Investments LLC ("Atticus Investments"), Crescent Fund, LLC ("Crescent"), Jeffery Stone ("Stone") and Janette Diller Stone ("Diller Stone"), avers as follows:

**JURISDICTION AND VENUE**

1. This action arises under the Lanham Trademark Act 15 U.S.C. §§ 1051 et seq. ("the Lanham Act"). Accordingly, this Court has federal question jurisdiction over the subject matter of this action pursuant to 15 U.S.C. 1221 and 28 U.S.C. 1338(a). This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a) because those claims are so related to the federal claims brought herein as to form part of the same case or controversy.

2. Venue is proper in this district under 28 U.S.C. § 1391(b) because Defendants reside and/or maintain a principal place of business in this district within the meaning of 28 U.S.C. § 1391(c).

**PARTIES**

3. Plaintiff is an active foreign limited liability company, formed on February 25, 1998 in Delaware, with its principal place of business located at 767 Fifth Avenue, New York, NY 10153.

4. Plaintiff is the successor in interest of Atticus Partners, L.P., the original owner and registrant of the mark "ATTICUS." Plaintiff, which is the general partner to Atticus Capital LP, is the owner of the registered U.S. Federal Trademark "ATTICUS," Registration Number 2,098,746, International Class ("IC") 036 for use in connection with financial services, namely investment fund management. Plaintiff's first use of its mark "ATTICUS" in commerce was on January 1, 1996.

5. The "ATTICUS" trademark registration received incontestability status on or about November 14, 2003.

6. Atticus Capital LP is a top New York based investment management firm with offices in London, England and over \$18 billion under management as of September 30, 2007.

7. Crescent is a limited liability company organized and existing under the laws of the State of Delaware, with a principal of business located at 40 Wall Street, New York, New York 10005. Upon information and belief, at all times material, Crescent was and remains a private equity consulting and promotional firm that purports to provide corporate capitalization and investor relations consulting services to both established and emerging companies.

8. Atticus Investments is a limited liability company organized and existing under the laws of Pennsylvania, with a principal place of business located at 40 Wall Street, New York, New York 10005. Upon information and belief, since the time of its formation, Atticus Investments has allegedly served as the financing arm of The Crescent Fund.

9. Upon information and belief, Jeffery Stone and Janette Diller Stone are both citizens and residents of the state of Connecticut, with a principal place of business located at 40 Wall Street, New York, NY 10005.

10. Upon information and belief, at all relevant times, Stone is an officer, director and/or principal of Crescent and Atticus Investments. At all relevant times, Stone has had direct involvement and participation in both companies' daily activities and operations.

11. Upon information and belief, at all relevant times, Diller Stone is President and CEO of both Crescent and Atticus Investments, with direct involvement and participation in both companies' daily activities and operations.

12. Upon information and belief, while both Crescent and Atticus Investments purport to have other officers and directors, Stone and Diller Stone control both entities. As such, neither Crescent nor Atticus Investments can enter into any agreement with any third-party without the express approval of Stone, Diller Stone, or both.

13. Defendants are individuals or business entities, who upon information and belief, are acting in concert and active participation with each other in committing the wrongful acts alleged herein.

#### **CIVIL AND CRIMINAL ACTIONS AGAINST DEFENDANTS**

14. Defendants Stone and Diller Stone have been accused of illegal activity, including but not limited to securities fraud in violation of numerous provisions of federal securities laws.

15. On September 21, 1999, Defendant Stone pleaded guilty to one count of conspiracy to commit wire fraud and commercial bribery in violation of 18 U.S.C. §371, and two counts of wire fraud in violation of 18 U.S.C. §§ 2, 1343 and 1346. See United States v. Jeffrey Stone, 97-Cr-01034 (JSM).

16. On the basis of Defendant Stone's guilty plea, he was sentenced to three years imprisonment, followed by three years of supervised release, and ordered to pay a fine of \$50,000.

17. Stone has been described in a U.S. Securities and Exchange Commission Litigation Release as a "recidivist securities law violator." see Exhibit A.

18. On August 16, 2006, a complaint was filed by the Securities and Exchange Commission ("SEC") charging Defendants Stone, Diller Stone and Crescent with securities fraud. See SEC v. Jeffery Steven Stone; Janette Diller Stone; Crescent Fund, LLC. et al. Case No. 06-CV-6528 (S.D.N.Y. filed August 17, 2006).

19. The complaint makes multiple references to Atticus Investments' role in the market manipulation scheme alleged against Defendants Stone and Diller Stone.

20. The SEC made multiple attempts over the course of months to serve Defendants Stone and Diller, which the Defendants evaded.

21. The SEC action is currently pending and the pleadings filed with the Court in that action are currently available to the general public.

22. On May 5, 2006, a complaint was filed by Laidlaw Energy Group, Inc. in the Supreme Court of the State of New York, County of New York, charging Defendants Stone, Diller Stone, Crescent and Atticus Investments with Fraudulent Inducement, Fraud and Intentional Misrepresentation, Unjust Enrichment and Conversion for their alleged role in illegally trading restricted stock. See Laidlaw Energy Group, Inc., v. Crescent Fund, LLC, et al. Index No. 06/601588 (N.Y. Sup. filed May 5, 2006).

23. Defendants filed a Verified Answer, in which they admit that Stone is an officer of Crescent and Atticus Investments and Diller Stone is President and CEO of both Crescent and

Atticus Investments. Defendants further admit to holding themselves out under the name Atticus, with a principal place of business in New York, New York.

24. This Laidlaw action is currently pending and the pleadings filed with the Court in that action are currently available to the general public.

### **ALLEGATIONS**

25. On or about, March 14, 2007, Plaintiff learned that Atticus Investments was using the service mark "ATTICUS" and doing business under that name.

26. On August 8, 2007, Plaintiff sent a Cease and Desist Letter to what was believed to be the Defendants' place of business, as well as their place of residence. The letters requested that Defendants cease using the "ATTICUS" mark in any manner in any place that it does business in order to eliminate the likelihood of confusion and possible inaccurate affiliation with Atticus Management. The letters were sent via regular mail and certified mail with a return receipt requested. The letters were all returned to sender.

27. On August 23, 2007, Plaintiff sent a second round of Cease and Desist letters to the Defendants.

28. On or about August 28, 2007, Plaintiff's Counsel received a copy of the August 23, 2007 Cease and Desist letter (which was sent to Atticus Investments LLC at 67 Wall Street, New York, New York 10005) with a handwritten response from Stone in which he denies using the name Atticus for approximately two years, describes it as "dormant entity," and claims Atticus is "a different name altogether." see Exhibit B.

29. On October 1, 2007, Plaintiff's Counsel received a copy of the August 23, 2007 Cease and Desist letter (which was sent to 362 Davis Ave. #1, Greenwich, Connecticut 06830, which upon information and belief is Defendant Stone and Diller Stone's residential address)



with another handwritten response from Stone that read, "We are Atticus Investment LL [sic] not Atticus Management LLC..." see Exhibit C.

30. Defendants are using the name "ATTICUS," which is Plaintiff's federally registered service mark.

31. As of the date of filing of this complaint, the Pennsylvania Department of Corporations lists the Defendant Atticus Investments' status as "Active." see Exhibit D.

32. At all relevant times, defendants have refused any and all attempts to comply with Plaintiff's request that Defendants cease and desist use of the "ATTICUS" mark and provide Plaintiff with written assurance that Defendants will cease and desist use of the "ATTICUS" mark.

**FIRST CAUSE OF ACTION**  
**FOR FEDERAL TRADEMARK INFRINGEMENT**

33. Paragraphs 1 through 32 are repeated and realleged as if fully set forth herein.

34. Plaintiff owns the federally registered service mark "ATTICUS", entitled to protection under the Lanham Act.

35. Defendants' use of the mark "ATTICUS" constitutes an unauthorized use of the mark in commerce and is likely to cause consumer confusion.

36. Defendants' conduct constitutes trademark infringement in violation of Section 32(1) of the Lanham Act, 15 U.S.C. §1114(1) and Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

**SECOND CAUSE OF ACTION**  
**FOR CONTRIBUTORY TRADEMARK INFRINGEMENT**

37. Paragraphs 1 through 36 are repeated and realleged as if fully set forth herein.

38. Defendant Crescent was aware of the Defendants Stone, Diller Stone, and Atticus Investments' unauthorized use of the "ATTICUS" mark.

39. Defendant Crescent benefited from the unauthorized use of the mark "ATTICUS" in the form of Crescent's financing arm, Atticus Investments.

40. Defendant Crescent's conduct constitutes contributory trademark infringement in violation of Section 32(1) of the Lanham Act, 15 U.S.C. §1114(1) and Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

**THIRD CAUSE OF ACTION**  
**FOR UNFAIR COMPETITION UNDER THE LANHAM ACT**

41. Paragraphs 1 through 40 are repeated and realleged as if fully set forth herein.

42. Plaintiff owns a valid, federally registered trademark entitled to protection under the Lanham Act.

43. Defendants' unauthorized use of the mark in commerce is likely to cause consumer confusion as to the origin or sponsorship of Defendants' services and the association of Defendants' services with Plaintiff or Plaintiff's services.

44. Defendants' conduct constitutes a false designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

45. Defendants' conduct constitutes a violation of Section 32(1) of the Lanham Act, 15 U.S.C. §1114(1).

**FOURTH CAUSE OF ACTION**  
**FOR COMMON LAW UNFAIR COMPETITION**

46. Paragraphs 1 through 45 are repeated and realleged as it fully set forth herein.

47. Defendants' unauthorized use of the Plaintiff's mark in commerce is likely to cause consumer confusion and induce consumers to believe that the Plaintiff and Defendants or their services are affiliated.

48. Defendants have misappropriated Plaintiff's mark, reputation, and good will through their actions.

49. Even after explicitly being informed of their unauthorized use, Defendants continue to engage in an unauthorized use of the Plaintiff's mark.

50. Defendants have acted deliberately and with bad faith.

51. Defendants have engaged in unfair methods of competition in violation of the common law.

52. As a result of Defendants' conduct, Plaintiff is likely to be vulnerable to a damaged reputation because of consumer confusion as to the origin or sponsorship of Defendants' services and the association of Defendants' services with Plaintiff or Plaintiff's services, and loss of profits.

**FIFTH CAUSE OF ACTION**  
**FOR DILUTION UNDER N.Y. Gen Bus. Law §360-1**

53. Paragraphs 1 through 52 are repeated and realleged as if fully set forth herein.

54. By virtue of Defendant Stone's prior conviction and involvement in illegal activities and the pending charges against Defendant Diller Stone, the Defendants' unauthorized use of plaintiff's rightfully held mark "ATTICUS" in association with services of a similar nature to those of Plaintiff impairs the mark's ability to serve as a unique identifier of the plaintiff's services and impairs the mark's ability to carry associations of quality.

55. Defendants' conduct has diluted the conclusively presumed distinctive quality of Plaintiff's incontestable mark and/or has a likelihood of injury to Plaintiff's business reputation in violation of N.Y. Gen. Bus. Law §360-1.

56. Defendants' conduct constitutes blurring and tarnishment, in violation of N.Y. Gen. Bus. Law §360-1.

WHEREFORE, Plaintiff prays for judgment in its favor and against Defendants as follows:

A. A permanent injunction, prohibiting each Defendant, its agents, servants, employees, officers, attorneys, and all other persons in active concert or participation with them, from:

1. infringing, or causing any other entity to infringe, Plaintiff's trademark and/or service mark rights by doing business under the name "ATTICUS" or representing themselves in any way using the name "ATTICUS" alone or in conjunction with any other names or words.
2. unfairly designating the origin of Defendants' products and/or services, or otherwise creating confusion regarding the origin of Defendants' services.
3. unfairly competing with Plaintiff in any manner whatsoever;
4. acting, or causing another entity to act, in any manner likely to dilute, tarnish, or blur the distinctiveness of the "ATTICUS" mark;
5. causing a likelihood of confusion or injuries to Plaintiff's business reputation.

B. A declaratory judgment that Defendants have infringed on Plaintiff's federally registered trademark, "ATTICUS."

C. An order directing each Defendant, its agents, servants, employees, franchisees, licensees, attorneys, and all others in active concert or participation with Defendants to deliver to Plaintiff any agreements between Defendants and any other party or parties that relate to the use of the ATTICUS mark in any way whatsoever;

D. Pursuant to 15 U.S.C. §1116, an order directing each Defendant to file with this Court and serve on Plaintiff within thirty (30) days after the service of the injunction, a report in writing, under oath, that describes in detail the manner and form in which each Defendant has complied with the orders of this Court;

E. An order directing an accounting to determine all gains, profits, savings, and advantages obtained by each Defendant as a result of its wrongful actions;

F. Awarding restitution to Plaintiff of all gains, profits, savings, and advantages obtained by each Defendant as a result of its wrongful actions;

G. Awarding Plaintiffs all damages caused by each Defendant's wrongful actions;

H. Awarding Plaintiffs treble the amount of its damages, together with the costs of this suit, including reasonable attorneys' fees and expenses and prejudgment interest;

I. Awarding Plaintiff an amount sufficient to conduct a corrective advertising campaign to dispel the effects of Defendants' wrongful conduct and confusing and misleading uses of the mark "ATTICUS;"

J. Awarding Plaintiff punitive damages in an amount sufficient to deter other and future similar conduct by Defendants and others;

K. Granting Plaintiff such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury.

Dated: New York, New York  
November 2, 2007

Respectfully Submitted,

KAUFMAN BORGEEST & RYAN LLP

A handwritten signature in cursive script, appearing to read "Jonathan Bruno", is written over a horizontal line.

By: Jonathan B. Bruno  
Attorney for Plaintiff,  
ATTICUS MANAGEMENT LLC  
99 Park Avenue, 19<sup>th</sup> Floor  
New York, New York 10016  
(212) 980-9600  
File No.: 125.001

**EXHIBIT A**

**U.S. Securities and Exchange Commission****U.S. SECURITIES AND EXCHANGE COMMISSION****Litigation Release No. 19805 / August 17, 2006*****SEC v. Jeffery Steven Stone, et al.*, Case No. 06-CIV-6258 (HB)  
(S.D.N.Y. filed Aug. 17, 2006)****SEC Charges Ex-Con in Stock Manipulation Scheme Involving San Francisco-Based Tech Company**

The Securities and Exchange Commission today charged a former felon and his wife with orchestrating a fraud scheme to inflate the price of WebSky, Inc., a San Francisco-based penny stock company, using spam email. The couple pocketed more than \$1 million in proceeds as a result of the scam.

The Commission's complaint alleges that Jeffery Steven Stone of Greenwich, Connecticut, and his wife, Janette Diller Stone, using entities they controlled, acquired massive amounts of WebSky stock under false pretenses, hired stock promoters to hype the stock in false spam emails, and then dumped their shares into the unsuspecting market. Stone is a recidivist securities law violator, having been convicted of fraud in a prior market manipulation scheme and found liable in civil proceedings by the Commission.

According to the complaint, Stone and Diller bought 288 million shares from WebSky based on false promises that the shares were being acquired for investment purposes and not as a means of distributing shares to the public. Within days, the two began selling the shares to third parties. Stone and Diller also engineered a spam email campaign that falsely portrayed WebSky - a start-up Internet company with virtually no revenues or profits - as having a successful joint venture in Argentina that would result in over \$40 million in annual revenues. In reality, WebSky's CEO had forbidden them from sending the spam email and informed them that WebSky's Argentina deal was no longer viable.

The complaint alleges that, as a result of Stone and Diller's fraud, WebSky's stock price soared by over 300% on trading volume almost 20 times greater than normal, after which Stone and Diller sold their WebSky shares. Combined with proceeds from other stock sales during the scheme, Stone and Diller received more than \$1 million in proceeds.

The Commission also brought charges against WebSky and its CEO, Douglas Haffer, of Oakland, California, for selling WebSky shares in a subsequent transaction to an entity controlled by Stone and Diller without registering the transaction or securing an exemption from registration. Subject to court approval, WebSky and Haffer have agreed to settle the action, without admitting or denying the allegations, by disgorging the \$35,000 received in the sale and consenting to a permanent injunction



against future violations of the registration provisions of the federal securities laws. Haffer also has agreed to pay a \$25,000 civil penalty.

The complaint, filed in federal court in New York, New York, charges Stone and Diller with violating the antifraud, registration, and other provisions of the federal securities laws. The complaint also names two entities controlled by the Stones, Crescent Fund, LLC, based in New York, New York, and Pedracar, Inc, a Pennsylvania company.

<http://www.sec.gov/litigation/litreleases/2006/lr19805.htm>

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Modified: 08/17/2006

**EXHIBIT B**

## KAUFMAN BORGEEST &amp; RYAN LLP

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JONATHAN D. RUBIN\*  
JUDITH M. FISHER\*  
A. MICHAEL PURMAN\*\*  
MICHAEL P. MEZZACAPPA\*\*  
DOUGLAS J. FITZMONAGHS  
STEVEN D. WEINER  
SCOTT A. SCHUCHTER  
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ANN MARIE COLLINS\*\*  
JONATHAN B. BRUNO\*  
PAUL J. COLUCCI  
MARGARET J. DAVINO\*\*  
JEFFREY C. GIBSON\*\*  
ROCCO R. MAIRA\*  
JOHN B. MULLAHT\*

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CAROL S. DOTY\*\*  
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MELINDA B. MARGOLIES\*  
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MICHAEL R. JAMES  
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LEONARD B. COOPER\*\*  
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JAMES T. DE SILVA

KEITH L. RAJLAN\*\*  
VINCENT C. ANSALDI\*\*  
DAVID J. YARRALE\*\*  
DOUGLAS J. DOMESTY  
TIMOTHY E. MCGLATHY\*  
JEFFREY A. KALINIK\*  
TRACEY REISER-DE TOSCHI  
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DAMIEN SMITH  
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CRISTINA LA MARCA  
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YOSHUA B. SANDREAG

THOMAS L. CALLAHAN  
EDITH R. FULLERTON\*\*  
CORRINE A. HURM  
DENNIS J. DOZIS\*  
LYNN M. DUKETTE  
RISA D. TARSOT\*\*  
MILLI SHAN\*\*  
LAURA B. JUFFA  
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BETSY PHILIP  
KIRA R. WALKER  
KEVIN B. WASSERSTEIN\*  
REMI D. FLAISEMAN\*  
MELISSA A. MANNING\*  
THOMAS LOOKSTEIN

\* ALSO ADMITTED IN PA  
\* ALSO ADMITTED IN NJ  
\* ALSO ADMITTED IN IL  
\* ALSO ADMITTED IN CT  
\* ALSO ADMITTED IN MA  
\* ALSO ADMITTED IN TX  
\* ALSO ADMITTED IN FL  
\* ALSO ADMITTED IN CA  
\* ADMITTED IN NY ONLY  
\* ADMITTED IN CA ONLY  
\* REGISTERED AT LAW  
\* ADMITTED IN ENGLAND & WALES

August 23, 2007

**VIA REGULAR MAIL AND  
CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Janette Diller  
Atticus Investments, LLC  
67 Wall Street  
New York, NY 10005

Re: Cease and Desist use of "ATTICUS" mark

Dear Ms. Diller:

This office represents Atticus Management LLC, owner of the registered service mark "ATTICUS." It was recently brought to our attention that Atticus Investments, LLC has been using the service mark of Atticus Management, LLC. Atticus Management LLC, which is the general partner to Atticus Capital LP, owns the mark "ATTICUS," a registered U.S. Federal Trademark, Registration Number 2,098,746. A copy of the federal registration is enclosed. Atticus Management LLC's first use of its mark "ATTICUS" was on January 1, 1996.

Your use of the "ATTICUS" mark constitutes a trademark infringement and confuses consumers and the public into believing that Atticus Investments, LLC is associated with, affiliated with, authorized by, or sponsored by trademark owner Atticus Management LLC, which it is not.

Atticus Management LLC demands that Atticus Investments, LLC immediately cease and desist use of the "ATTICUS" mark in any manner in the States of Delaware, New York or anywhere else it may do business in order to eliminate any likelihood of confusion and the possibility of an inaccurate affiliation with Atticus Management LLC. The unlicensed use of the "ATTICUS" mark is a violation of trademark law<sup>1</sup> and is not permitted; consequently we ask for immediate written assurances that you will cease and desist as well as the date on which you will last use the mark.

<sup>1</sup> See Lanham Act, 15 U.S.C. 1125(a), (d)

NEW YORK CITY • WESTCHESTER • LONG ISLAND • NEW JERSEY • CALIFORNIA

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Atticus Investments, LLC  
Cease and Desist  
August 23, 2007  
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Unless such assurances are received within ten (10) days, we will have no choice but to take appropriate action to protect our client's interests. Please be advised that this letter shall not be deemed to be a waiver of Atticus Management LLC's rights or remedies, which are expressly reserved.

Should you have questions or concerns, do not hesitate to contact me. Thank you, in advance, for your consideration.

Very truly yours,

KAUFMAN BORGEEST & RYAN LLP

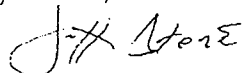
  
Jonathan B. Bruno

Encl.  
cc: Atticus Management LLC  
628056-1

Jonathan:

Firstly, you are full of shit. We have not used the name Atticus for approximately 2 years. Essentially, a dormant entity and further, a different name, altogether. Do what you have to do. You are wasting time.

Very Truly Yours,



KAUFMAN BORGEEST & RYAN LLP

10TH P. 03

Int. Cl.: 36

Prior U.S. Cls.: 100, 101 and 102

Reg. No. 2,098,746

United States Patent and Trademark Office

Registered Sep. 23, 1997

SERVICE MARK  
PRINCIPAL REGISTER

ATTICUS

ATTICUS PARTNERS, L.P. (DELAWARE LIMITED PARTNERSHIP)  
153 EAST 3RD STREET  
NEW YORK, NY 10022

FIRST USE 1-1-1996; IN COMMERCE  
1-1-1996

SER. NO. 75-057,544, FILED 2-13-1996

FOR FINANCIAL SERVICES, NAMELY INVESTMENT FUND MANAGEMENT, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

DAVID H. STINE, EXAMINING ATTORNEY

212 943 4949 P. 03

212 943 4949

20:01 2002-28-006

**EXHIBIT C**

ANDREW E. KAUFMAN  
WAYNE E. BORGEEST  
JULIANNA RYAN  
LEE E. BERGER  
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JONATHAN D. RUBIN  
JUDITH M. FISHER  
A. MICHAEL FURMAN  
MICHAEL P. MEZZACAPPA  
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CHRISTOPHER E. DIGIACINTO  
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JOHN B. MULLAHD  
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REBECCA KILDUFF  
KRISTOPHER M. DENNIS  
CHRISTINE HEENAN  
BELINDA DODDS-MARSHALL  
JULIE A. KEEGAN  
STEPHANIE B. GITNIK  
JEFFREY W. KLEINER  
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R. EVON HOWARD  
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KATHERINE J. O'BRIEN  
DAMIEN SMITH  
ANDREW S. KOWLOWITZ  
MATTHEW M. FERGUSON  
D. RYAN BLOOMQUIST  
CRISTINA LA MARCA  
EDWARD R. NORRIS  
MATTHEW SPERGEL  
PAUL T. CURLEY  
ROBERT A. BENJAMIN  
KATHRYN C. COLLINS  
JANINE C. CHALLELLA  
ELAN R. KANDEL  
BRIAN M. SHER  
PAIGE E. COOPERMAN  
MARILYN M. O'CONNOR  
JOSHUA B. SANDBERG

THOMAS L. GALLIVAN  
EILEEN R. FULLERTON  
CORRIE A. HURM  
DENNIS J. DOZIS  
LYNN M. DUKETTE  
RISA D. TARKOFF  
MELLI SHAH  
LAURA B. JUFFA  
JOSEPH P. DEPAOLA  
KATELIN B. O'ROURKE  
BETSY PHILIP  
SARA K. WALKER  
KERI B. WASSERSTEIN  
REMI D. FLAUSHMAN  
MELISSA A. MANNING  
THOMAS LOOKSTEIN

\* ALSO ADMITTED IN PA  
\* ALSO ADMITTED IN NJ  
\* ALSO ADMITTED IN DC  
\* ALSO ADMITTED IN CT  
\* ALSO ADMITTED IN MA  
\* ALSO ADMITTED IN TX  
\* ALSO ADMITTED IN FL  
\* ALSO ADMITTED IN CA  
\* ADMITTED IN NY ONLY  
\* ADMITTED IN CA ONLY  
\* ADMITTED IN ENGLAND & WALES

August 23, 2007

**VIA REGULAR MAIL AND  
CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Janette Diller  
Atticus Investments, LLC  
362 Davis Ave., #1  
Greenwich, CT 06830

*We are Atticus Investment LLC  
not Atticus Management, LLC -  
so again, you are full of  
shit.*

Re: Cease and Desist use of "ATTICUS" mark

Dear Ms. Diller:

This office represents Atticus Management LLC, owner of the registered service mark "ATTICUS." It was recently brought to our attention that Atticus Investments, LLC has been using the service mark of Atticus Management, LLC. Atticus Management LLC, which is the general partner to Atticus Capital LP, owns the mark "ATTICUS," a registered U.S. Federal Trademark, Registration Number 2,098,746. A copy of the federal registration is enclosed. Atticus Management LLC's first use of its mark "ATTICUS" was on January 1, 1996.

Your use of the "ATTICUS" mark constitutes a trademark infringement and confuses consumers and the public into believing that Atticus Investments, LLC is associated with, affiliated with, authorized by, or sponsored by trademark owner Atticus Management LLC, which it is not.

Atticus Management LLC demands that Atticus Investments, LLC immediately cease and desist use of the "ATTICUS" mark in any manner in the States of Delaware, New York or anywhere else it may do business in order to eliminate any likelihood of confusion and the possibility of an inaccurate affiliation with Atticus Management LLC. The unlicensed use of the "ATTICUS" mark is a violation of trademark law<sup>1</sup> and is not permitted; consequently we ask for immediate written assurances that you will cease and desist as well as the date on which you will last use the mark.

<sup>1</sup> See Lanham Act, 15 U.S.C. 1125(a), (d)

**EXHIBIT D**





# PENNSYLVANIA Department of State

## Corporations

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Orders  
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### Business Entity

#### Filing History

**Date:** 10/25/2007 (Select the link above to  
view the Business Entity's  
Filing History)

#### Business Name History

Name	Name Type
ATTICUS INVESTMENTS LLC	Current Name

#### Limited Liability Company - Domestic - Information

<b>Entity Number:</b>	3309635
<b>Status:</b>	Active
<b>Entity Creation Date:</b>	5/26/2005
<b>State of Business.:</b>	PA
<b>Principal Office Address:</b>	% NATIONAL CORPORATE RESEARCH LTD
	PA -
<b>Mailing Address:</b>	No Address

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Commonwealth of PA Privacy Statement

# **EXHIBIT C**

**Affidavit of Process Server**

United States District Court Southern District of New York

Atticus Management LLC vs. Atticus Investments, LLC 07 CIV 9730  
 PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT CASE #  
 Crescent Fund, LLC Jeffrey Stone; JANETTE DILLER-  
 STONE

I declare that I am a citizen of the United States, over the age of eighteen and not a party to this action.

Service: I served Janette Diller-Stone  
 NAME OF PERSON/ENTITY BEING SERVED

with the (document(s)) Summons with attached documents totaling 49 pages

by serving Janette Diller Stone SELF  
 NAME RELATIONSHIPat ☒ Home 362 DAVIS Ave, Unit 3, Greenwich CT☐ Businesson TUESDAY, NOVEMBER 13<sup>TH</sup> 2007 at 9:15 A.M.  
 DATE TIMEThereafter copies of the documents were mailed by prepaid, first class mail on  
 DATEfrom  
 CITY STATEManner of Service: ☒ By personally delivering copies to the person/authorized agent of entity being served.☐ By leaving, during office hours, copies at the office of the person/entity being served, leaving same with the person apparently in charge thereof☐ By leaving copies at the dwelling house or usual place of abode of the person being served, with a member of the household 18 or older and explaining the general nature of the papers.☐ By posting copies in a conspicuous manner to the address of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

☐ Unknown at Address ☐ Evading ☐ Moved, Left no Forwarding ☐ Other:  
☐ Address Does Not Exist ☐ Service Denied by Agent ☐ Unable to Serve in a Timely Fashion
Service Attempts: Service was attempted on  
 DATE TIME DATE TIME

DATE TIME DATE TIME DATE TIME

Description: Age 40's Sex F Race W Hgt 5'-5'4 Wgt Med Build Hair BROWN Glasses No Brown Eyes

I declare under penalty of perjury that the information contained herein is true and correct and this affidavit was executed on

November 13, 2007 at Greenwich CT

Catherine Harkness  
 SIGNATURE OF PROCESS SERVERState of  
 Country ofsubscribed and sworn before me a notary public this 13<sup>th</sup> day of November 2007

WITNESS MY HAND AND OFFICIAL SEAL TO

James N. Oulundsen

Notary Public  
 State of Connecticut  
 My Commission Expires

3-31-2010

Index # 07 civ 9730

Purchased/Filed: November 2, 2007

**AFFIDAVIT OF SERVICE ON A CORPORATION BY THE SECRETARY OF STATE**

State of New York

U. S. District Court

Southern Dist. County

Atticus Management LLC

Plaintiff

against

Atticus Investments LLC, Crescent Fund, LLC; et al

Defendant

STATE OF NEW YORK )  
COUNTY OF ALBANY ) SS  
CITY OF ALBANY )**DESCRIPTION OF PERSON SERVED:**

Approx. Age: 45 Yrs.

Weight: 120 Lbs. Height: 5' 0" Sex: Female Color of skin: White

Hair color: Brown Other:

Robin Bradow, being duly sworn, deposes and says: deponent is over the age of eighteen (18) years; that on November 29, 2007, at 11:30am, at the office of the Secretary of State of the State of New York in the City of Albany, New York deponent served the annexed Summons in a Civil Action and Complaint on

Atticus Investments LLC, the

Defendant in this action, by delivering to and leaving with Carol Vogt,

AUTHORIZED AGENT in the Office of the Secretary of State, of the State of New York, personally at the Office of the Secretary of State of the State of New York, one (1) true copy thereof and that at the time of making such service, deponent paid said Secretary of State a fee of 40.00 dollars; That said service was made pursuant to Section LIMITED LIABILITY COMPANY LAW §304.

Deponent further says that deponent knew the person so served as aforesaid to be the agent in the Office of the Secretary of State of the State of New York, duly authorized to accept such service on behalf of said defendant.

Sworn to before me on this

29th day of November, 2007



FAITH COZZY  
NOTARY PUBLIC, State of New York  
No. 01CO6158874, Albany County  
Commission Expires Jan 8, 2011



Robin Bradow

Invoice-Work Order # 0723625

Index # 07 civ 9730

Purchased/Filed: November 2, 2007

**AFFIDAVIT OF SERVICE ON A CORPORATION BY THE SECRETARY OF STATE**

State of New York

U. S. District Court

Southern Dist. County

Atticus Management LLC

Plaintiff

against

Atticus Investments LLC, Crescent Fund, LLC; et al

Defendant

STATE OF NEW YORK )  
COUNTY OF ALBANY ) SS  
CITY OF ALBANY )**DESCRIPTION OF PERSON SERVED:**

Approx. Age: 45 Yrs.

Weight: 120 Lbs. Height: 5' 0" Sex: Female Color of skin: White

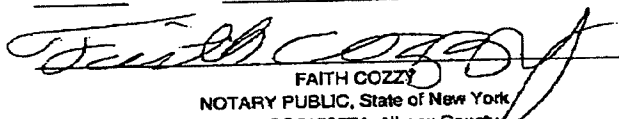
Hair color: Brown Other:


Robin Brandow, being duly sworn, deposes and says: deponent is over the age of eighteen (18) years; that on November 26, 2007, at 9:00am, at the office of the Secretary of State of the State of New York in the City of Albany, New York deponent served the annexed Summons in a Civil Action and Complaint on Crescent Fund, LLC, the Defendant in this action, by delivering to and leaving with Carol Vogt, AUTHORIZED AGENT in the Office of the Secretary of State, of the State of New York, personally at the Office of the Secretary of State of the State of New York, two (2) true copies thereof and that at the time of making such service, deponent paid said Secretary of State a fee of 40.00 dollars; That said service was made pursuant to Section LIMITED LIABILITY COMPANY LAW §303.

Deponent further says that deponent knew the person so served as aforesaid to be the agent in the Office of the Secretary of State of the State of New York, duly authorized to accept such service on behalf of said defendant.

Sworn to before me on this

26th day of November, 2007

  
 FAITH COZZY  
 NOTARY PUBLIC, State of New York  
 No. 01CO6158874, Albany County  
 Commission Expires Jan 8, 2011

  
 Robin Brandow

Invoice-Work Order # 0723624

# **EXHIBIT D**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ATTICUS MANAGEMENT LLC,

Plaintiff,

-against-

ATTICUS INVESTMENTS LLC,  
CRESCENT FUND, LLC, JEFFERY STONE  
and JANETTE DILLER STONE

Defendants.  
-----X

Civil Action No. 07 CV 9730 (RPP)

**JUDGMENT BY DEFAULT**  
**AGAINST ATTICUS**  
**INVESTMENTS LLC,**  
**CRESCENT FUND, LLC, and**  
**JANETTE DILLER STONE**

Upon the motion for default judgment of Plaintiff Atticus Management LLC and the supporting declaration of Jonathan B. Bruno and memorandum of law, all dated February 26, 2008 it is hereby ORDERED, that judgment be entered under Fed R. Civ. P. 55(b)(2) and Local Civil Rule 55.2(b), against defendants Atticus Investments LLC, Crescent Fund, LLC, and Janette Diller Stone, in the form of a permanent injunction restraining defendants from further violations of the Lanham Act, state trademark and unfair competition law and common law and such other and further relief as this Court deems just and proper.

SO ORDERED:

Date: \_\_\_\_\_

\_\_\_\_\_  
Hon. Robert P. Patterson